

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN COURT OFFICER (Gregory
J. Saffady)

Plaintiff,

v.

Case No. _____

CHASE HOME FINANCE, INC., a New Jersey corporation
and subsidiary of J.P. MORGAN CHASE, a New York banking
corporation; PNC FINANCIAL SERVICES GROUP, INC., A
Pennsylvania bank holding company and successor- by merger-
To NATIONAL CITY CORP, former parent of NATIONAL CITY
BANK MICHIGAN/ILLINOIS,

Defendants.

TINDALL & COMPANY . PC
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VERIFIED COMPLAINT FOR FORECLOSURE

Plaintiff, by and through his undersigned counsel, for his Complaint in this matter states as follows:

PARTIES AND JURISDICTION

1. Plaintiff is a resident of Wayne County, Michigan, appointed as a Michigan Court Officer by the State of Michigan pursuant to MCL 600.8321(1), and, at all times relevant hereto, was the Court Appointed Receiver of the 35th District Court, Plymouth, Michigan.

2. Defendant CHASE HOME FINANCE INC., ("Chase") is a subsidiary of J.P. MORGAN CHASE with headquarters and principal offices located in Iselin, NJ, and is the holder/owner of a certain real estate mortgage against the property subject to this foreclosure action recorded at Liber 37270, Page 825, Wayne County [MI] Records. The headquarters and principal offices of J.P. MORGAN CHASE are located in New York, NY.

3. Defendant PNC Financial Services Group, Inc., ("PNC") is a Pennsylvania bank holding company with its headquarters and principal offices located in Pittsburgh PA, and, is the successor – by merger – to NATIONAL CITY CORP, a former Delaware corporation and former parent of NATIONAL CITY BANK MICHIGAN/ILLINIOS, holding a certain real estate mortgage against the real property subject to this foreclosure action recorded at Liber 37127, Page 1033, Wayne County [MI] Records.

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 on the basis of diversity of citizenship and venue is proper in this Court pursuant to 28 U.S.C. § 1391.

5. The amount in controversy exceeds \$75,000.00, exclusive of costs, interest and reasonable attorney fees.

COUNT I
JUDICIAL FORECLOSURE

6. Paragraphs 1 through 5 of this Complaint are incorporated herein by reference.

7. On or about October 1, 2008 (amended October 15, 2008), Plaintiff was appointed Court Appointed Receiver over all the assets and property of MARK and

RHANDA MANGANO (hereinafter collectively "Mangano") in Case No. 08-C-0988GC pending in the 35th District Court, Plymouth MI., See, Exhibit 1, including the real property (the "Property") that is subject to this action located in the City of Canton, County of Wayne, State of Michigan, commonly known as 43630 Michigan Ave., and more particularly described in attached Exhibit 2.

8. On or about October 27, 2008, the 35th District Court entered its Order to Sell the Property. See, Exhibit 3.

9. Before the Property could be sold, Mangano filed Chapter 7 Bankruptcy in the Middle District of Tennessee.

10. By Order dated July 1, 2009, effective September 1, 2009, the Property was released from Bankruptcy jurisdiction, on motion of Chase, and abandoned by the Bankruptcy Trustee subject to the provisions of state [Michigan] law. See, Exhibit 4.

11. Plaintiff claims a first priority equitable lien superior to the interests of Chase and PNC for costs, fees and administrative expenses of the receivership in the amount of \$ 264,384.35.

12. On or about December 22, 2009, Chase requested Plaintiff's consent to proceed with a foreclosure sale of the property, as required by Michigan law. See, Exhibits 5A and B.

13. On or about March 4, 2010, Plaintiff updated its equitable lien through February 15, 2010, consented to the proposed foreclosure sale by Chase, consented to the transfer of its lien to proceeds of such sale, and, recorded such consent at Liber 48375, PP 656-679 Wayne County [MI] Records. See, Exhibit 6.

14. Chase has failed to pursue or complete a sale of the Property.

15. As of February 15, 2010, Plaintiff's priority equitable lien is the sum of \$264,384.35, plus continuing statutory interest, costs, and reasonable attorneys' fees through the date of foreclosure and sale of the Property.

16. The following Defendants claim rights and interests in the Property:

- a. Chase, pursuant to real estate mortgage recorded at Liber 37270, Page 825, Wayne County [MI] Records.
- b. PNC, as successor – by merger - to NATIONAL CITY CORP, former parent of NATIONAL CITY BANK MICHIGAN/ILLINOIS, pursuant to a real estate mortgage recorded at Liber 37127, Page 1033, Wayne County Records.

17. As a matter of federal and Michigan law, Plaintiff's equitable lien takes first priority over the claims/interests of Chase and PNC to the subject property.

18. Plaintiff has the right to foreclose its first priority equitable lien and sell the Property pursuant to MCL 600.3101.

19. No proceeding has been instituted to recover the debt evidenced by the priority equitable lien or any part of it, and no part of the debt has been collected or paid.

20. This Complaint is verified, as set forth in Exhibit 7.

WHEREFORE, Plaintiff requests this Court:

- A. Order and adjudge a foreclosure and sale of the Property to satisfy the debt, plus Plaintiff's costs and attorneys' fees, pursuant to MCL 600.3101 et seq.;
- B. Determine and declare the rights and interests of all other Defendants are subordinate to the rights and interests of Plaintiff, pursuant to MCL 600.2932;
- C. Grant Plaintiff such other and further relief that the Court determines to be just and equitable.

Respectfully Submitted,

TINDALL & COMPANY P.C.
ATTORNEYS FOR PLAINTIFF

BY: /s/ _____
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